

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
AT&T Corporation	)	IC Nos. 01-S65704
	)	02-S77163
Complaints Regarding	)	02-S79377
Unauthorized Change of	)	02-S80090
Subscriber's Telecommunications Carrier	)	02-S80175
	)	02-S80183
	)	02-S80187
	)	02-S80809
	)	02-S80684
	)	02-S81467
	)	02-S81859
	)	02-S82026
	)	02-S82057
	)	02-B0011024
	)	03-S82091
	)	03-S82093
	)	03-S82104
	)	03-S82108
	)	03-S82191
	)	03-S82207
	)	03-S82250
	)	03-S82697
	)	03-S83576
	)	03-S83749
	)	03-S83769
	)	03-S83866

**ORDER**

**Adopted: October 9, 2003****Released: October 10, 2003**

By the Acting Deputy Chief, Policy Division, Consumer & Governmental Affairs Bureau:

1. In this Order, we consider the complaints filed by Complainants<sup>1</sup> alleging that AT&T Corporation (AT&T) changed Complainants' telecommunications service providers

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<sup>1</sup> See Appendix A, 03-S82697 is a duplicate of 03-S82207.

without obtaining authorization and verification from Complainants' in violation of the Commission's rules.<sup>2</sup> We conclude that AT&T's actions did not result in an unauthorized change in Complainants' telecommunications service providers and we deny Complainants' complaints.

2. In December 1998, the Commission released the *Section 258 Order* in which it adopted rules to implement Section 258 of the Communications Act of 1934 (Act), as amended by the Telecommunications Act of 1996 (1996 Act).<sup>3</sup> Section 258 prohibits the practice of "slamming," the submission or execution of an unauthorized change in a subscriber's selection of a provider of telephone exchange service or telephone toll service.<sup>4</sup> In the *Section 258 Order*, the Commission adopted aggressive new rules designed to take the profit out of slamming, broadened the scope of the slamming rules to encompass all carriers, and modified its existing requirements for the authorization and verification of preferred carrier changes. The rules require, among other things, that a carrier receive individual subscriber consent before a carrier change may occur.<sup>5</sup> Pursuant to Section 258, carriers are absolutely barred from changing a customer's preferred local or long distance carrier without first complying with one of the Commission's verification procedures.<sup>6</sup> Specifically, a carrier must: (1) obtain the subscriber's written or electronically signed authorization in a format that meets the requirements of Section 64.1130 authorization; (2) obtains confirmation from the subscriber via a toll-free number provided exclusively for the purpose of confirming orders electronically; or (3) utilize an independent third party to verify the subscriber's order.<sup>7</sup>

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<sup>2</sup> See 47 C.F.R. §§ 64.1100 – 64.1190.

<sup>3</sup> 47 U.S.C. § 258(a); Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996); *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket No. 94-129, Second Report and Order and Further Notice of Proposed Rule Making, 14 FCC Rcd 1508 (1998) (*Section 258 Order*), *stayed in part*, *MCI Company v. FCC*, No. 99-1125 (D.C. Cir. May 18, 1999); First Order on Reconsideration, 15 FCC Rcd 8158 (2000); *stay lifted*, *MCI Company v. FCC*, No. 99-1125 (D.C. Cir. June 27, 2000); Third Report and Order and Second Order on Reconsideration, 15 FCC Rcd 15996 (2000), Errata, DA No. 00-2163 (rel. Sept. 25, 2000), Erratum, DA No. 00-2192 (rel. Oct. 4, 2000), Order, FCC 01-67 (rel. Feb. 22, 2001); *reconsideration pending*. Prior to the adoption of Section 258, the Commission had taken various steps to address the slamming problem. See, e.g., *Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket No. 94-129, Report and Order, 10 FCC Rcd 9560 (1995), *stayed in part*, 11 FCC Rcd 856 (1995); *Policies and Rules Concerning Changing Long Distance Carriers*, CC Docket No. 91-64, 7 FCC Rcd 1038 (1992), *reconsideration denied*, 8 FCC Rcd 3215 (1993); Investigation of Access and Divestiture Related Tariffs, CC Docket No. 83-1145, Phase I, 101 F.C.C.2d 911, 101 F.C.C.2d 935, *reconsideration denied*, 102 F.C.C.2d 503 (1985).

<sup>4</sup> 47 U.S.C. § 258(a).

<sup>5</sup> See 47 C.F.R. § 64.1120.

<sup>6</sup> 47 U.S.C. § 258(a).

<sup>7</sup> See 47 C.F.R. § 64.1120(c). Section 64.1130 details the requirements for letter of agency form and content for written or electronically signed authorizations. 47 C.F.R. § 64.1130.

3. The Commission also has adopted liability rules. These rules require the carrier to absolve the subscriber where the subscriber has not paid his or her bill. In that context, if the subscriber has not already paid charges to the unauthorized carrier, the subscriber is absolved of liability for charges imposed by the unauthorized carrier for service provided during the first 30 days after the unauthorized change.<sup>8</sup> Where the subscriber has paid charges to the unauthorized carrier, the Commission's rules require that the unauthorized carrier pay 150% of those charges to the authorized carrier, and the authorized carrier shall refund or credit to the subscriber 50% of all charges paid by the subscriber to the unauthorized carrier.<sup>9</sup> Carriers should note that our actions in this Order do not preclude the Commission from taking additional action, if warranted, pursuant to Section 503 of the Act.<sup>10</sup>

4. We received Complainants' complaints alleging that Complainants' telecommunications service providers had been changed without Complainants' authorization.<sup>11</sup> Pursuant to Sections 1.719 and 64.1150 of our rules,<sup>12</sup> we notified AT&T of the complaints and AT&T responded.<sup>13</sup> We find that AT&T's actions did not result in an unauthorized change in Complainants' telecommunications service.<sup>14</sup>

5. Accordingly, IT IS ORDERED that, pursuant to Section 258 of the Communications Act of 1934, as amended, 47 U.S.C. § 258, and Sections 0.141, 0.361 and 1.719 of the Commission's rules, 47 C.F.R. §§ 0.141, 0.361, 1.719, the complaints filed by Complainants against AT&T Corporation ARE DENIED.

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<sup>8</sup> See 47 C.F.R. §§ 64.1140, 64.1160. Any charges imposed by the unauthorized carrier on the subscriber for service provided after this 30-day period shall be paid by the subscriber to the authorized carrier at the rates the subscriber was paying to the authorized carrier at the time of the unauthorized change. *Id.*

<sup>9</sup> See 47 C.F.R. §§ 64.1140, 64.1170.

<sup>10</sup> See 47 U.S.C. § 503.

<sup>11</sup> See Appendix A.

<sup>12</sup> 47 C.F.R. § 1.719 (Commission procedure for informal complaints filed pursuant to Section 258 of the Act); 47 C.F.R. § 64.1150 (procedures for resolution of unauthorized changes in preferred carrier).

<sup>13</sup> See Appendix A.

<sup>14</sup> If Complainant is unsatisfied with the resolution of this complaint, Complainant may file a formal complaint with the Commission pursuant to Section 1.721 of the Commission's rules, 47 C.F.R. § 1.721. Such filing will be deemed to relate back to the filing date of Complainant's informal complaint so long as the formal complaint is filed within 45 days from the date this order is mailed or delivered electronically to Complainant. See 47 C.F.R. § 1.719.

FEDERAL COMMUNICATIONS COMMISSION

Nancy A. Stevenson, Acting Deputy Chief  
Policy Division  
Consumer & Governmental Affairs Bureau

## APPENDIX A

INFORMAL COMPLAINT NUMBERS	DATE OF COMPLAINT	DATE OF RESPONSE
01-S65704	September 26, 2001	December 21, 2001
02-S77163	May 15, 2002	August 27, 2002
02-S79377	June 28, 2002	September 23, 2002
02-S80090	August 27, 2002	October 7, 2002
02-S80175	September 9, 2002	October 11, 2002
02-S80183	July 16, 2002	October 25, 2002
02-S80187	June 18, 2002	October 17, 2002
02-S80684	October 3, 2002	November 18, 2002
02-S80809	October 10, 2002	November 21, 2002
02-S81467	November 13, 2002	January 13, 2003
02-S81859	September 30, 2002	February 24, 2003
02-S82026	December 10, 2002	February 24, 2003
02-S82057	October 1, 2002	February 24, 2003
02-B0011024	October 8, 2002	February 4, 2003
03-S82091	December 26, 2002	February 28, 2003
03-S82093	September 26, 2002	February 28, 2003
03-S82104	December 19, 2002	February 28, 2003
03-S82108	October 31, 2002	February 26, 2003
03-S82191	January 9, 2003	February 26, 2003
03-S82207	December 27, 2002	February 26, 2003

03-S82250	January 14, 2003	March 4, 2003
03-S82697	January 14, 2003	March 18, 2003
03-S83576	April 22, 2003	June 3, 2003
03-S87769	May 1, 2003	June 3, 2003
03-S83768	May 6, 2003	June 6, 2003
03-S83866	March 26, 2003	June 5 2003